

ORDINANCE NO. 16816-02-2006

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF FORT WORTH, BEING ORDINANCE NO. 13896, AS AMENDED, CODIFIED AS APPENDIX "A" OF THE CODE OF THE CITY OF FORT WORTH, TO AMEND SECTION 4.1200 OF SUBSECTION I, "APPEAL" TO ADD PARAGRAPH 2 TO PROVIDE THAT AN APPEAL FROM THE DOWNTOWN DESIGN REVIEW BOARD SHALL BE HEARD BY THE APPEALS BOARD AND TO PROVIDE FOR THE RECORD FOR THE APPEAL AND CONSIDERATION OF THE APPEAL BY THE APPEALS BOARD AND TO PROVIDE THAT A HEARING BEFORE THE APPEALS BOARD EXHAUSTS THE ADMINISTRATIVE REMEDIES OF THE PROPERTY OWNER/APPELLANT; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the current procedure for property owners desiring to appeal a decision of the Downtown Design Review Board is to appeal to the City Council of Fort Worth; and

WHEREAS, the City Council of Fort Worth requested that city staff make a recommendation to provide alternatives as to where the appeal would be heard; and

WHEREAS, staff recommended that the Appeals Board for the Building Standards Commission hear any appeals from decisions of the Downtown Design Review Board;

WHEREAS, the City Council accepted the recommendation of staff and requested all appropriate ordinances be amended;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS AS FOLLOWS:

SECTION 1.

Chapter 4, Article 12, of Ordinance No. 13896, the Zoning Ordinance of the City of Fort Worth, Subsection I. "Appeal" Section 4.1200, is amended to add paragraph 2. "Appeals Board" to provide that the Appeals Board shall hear appeals from the Downtown Design Review Board, to read as follows:

4.1200 Urban Design District-Downtown

I. Appeal

2. Appeals Board

- a. All decisions by the Downtown Design Review Board may be appealed to the Appeals Board by the applicant. A written notice of appeal must be filed with the City Secretary within ten days after receipt of notification of the Downtown Design Review Board's decision. The written notice of appeal shall specify:
 - i. That the decision of the board is unreasonable, either in whole or in part; and
 - ii. The grounds for the appeal.
- b. The Appeals Board shall schedule a hearing on such appeal within 30 days after receipt of the notice of appeal, or as soon as thereafter as reasonably practicable. Notice of such hearing shall be published by the City Secretary in the City's Official Newspaper not less than the 15th day before the hearing. The Secretary of the Downtown Design Review Board shall forward to the Appeals Board a complete record of the matter, including a transcript of the tape of the hearing before the Downtown Review Board. In consideration of an appeal, the Appeals Board shall
 - i. Hear and consider testimony and evidence concerning the previous recommendations and actions of the city staff and the Downtown Design Review Board;
 - ii. Hear new testimony and consider new evidence that was not available at the time of the hearing before the Downtown Design Review Board;
 - iii. Apply the substantial evidence test to the decision of the Downtown Design Review Board, considering the record made before the Downtown Design Review Board;
 - iv. Have the option to remand any case back to the Downtown Design Review Board for further proceedings.
- c. The Appeals Board may uphold, reverse or modify the decision of the Downtown Design Review Board unless a continuance is agreed to by the owner/appellant.

- d. A hearing before the Appeals Board shall exhaust the administrative remedies of the property owner/appellant under this title. Any owner/appellant aggrieved by the decision of the Appeals Board may file in District Court.

SECTION 2.

That this ordinance shall be cumulative of all other ordinances of the City of Fort Worth affecting zoning and shall not repeal any of the provisions of such ordinances, except in those instances where provisions of such ordinances are in direct conflict with the provisions of this ordinance.

SECTION 3.

That all rights or remedies of the City of Fort Worth, Texas, are expressly saved as to any and all violations of Ordinance Nos. 3011, 13896, or any amendments thereto that have accrued at the time of the effective date of this ordinance; and as to such accrued violations, and all pending litigation, both civil or criminal, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 4.

That it is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared void, ineffective or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such voidness, ineffectiveness or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the

same would have been enacted by the City Council without the incorporation herein of any such void, ineffective or unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 5.

That this ordinance shall take effect upon adoption.

APPROVED AS TO FORM AND LEGALITY:

David Yett, City Attorney

By: Melinda Rumor
Assistant City Attorney

Adopted: February 14, 2006
Effective: February 24, 2006